REMARKS

Reconsideration and allowance of the subject application are respectfully requested. Claims 1-6, 9 and 11-13 remain pending, claims 1, 9, and 11 being independent.

Prior Art Rejections

1. Yuki - Haartsen

Claims 1-6, 9, 11, and 12 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Yuki et al. (U.S. Patent 6,778,557, hereinafter "Yuki") in view of Haartsen (U.S. Patent 6,393,007). This rejection is respectfully traversed.

Independent claim 1 is directed to an optical burst transmission/reception control system. The system of claim 1 comprises: a plurality of slave station apparatuses which commonly use a transmission band; and a host station apparatus which posts band allocation information for controlling allocation of use transmission bands of the slave station apparatuses to the slave station apparatuses. The respective slave station apparatuses transmit data to the host station apparatus based on the band allocation information posted from the host station apparatus. The host station apparatus has a band allocation control unit, and when the band allocation control unit controls band allocation for a slave station apparatus which does not identify a type of data to be transmitted, the band allocation control unit posts band identification information including identification of the slave station apparatus to the slave station apparatus, and when the band allocation control unit controls band allocation for a slave station apparatus which identifies a type of data to be transmitted, the band allocation control unit posts band allocation information including the identification of the slave station apparatus and the data type to the slave station apparatus. The plurality of slave station apparatuses, which identify a type of data to be transmitted, have a data transmission control unit, and when the band allocation information is the band allocation information about their slave station apparatuses, perform control so as to transmit data to the host station apparatus according to the data types.

Therefore, as emphasized by amendments to claim 1 presented May 4, 2005, the band allocation control unit of the host system is able to differentiate between two classes of slave units: a first class of slave unit that can identify a type of data being transmitted; and a second

class of slave unit that cannot identify the type of data being transmitted. The band allocation control unit sends different band identification information depending on the type of slave unit.

In rejecting claim 1, page 3 of the Office Action asserts:

> *Yuki et al.* differ from the claimed invention in that *Yuki et al.* do not teach identify the data type and transmit data to said host station apparatus according to the data types. However, *Haartsen* from the same field of endeavor teach a method to separate between time slots allocated to voice communication channels and to data communication (Col. 3, lines 45-50, Col. 4, lines 26-32, inherently a data type must be identified in a information sent to slave station). Therefore, it would have been obvious to a person having ordinary skill in the art at the time of invention to adapt a time-slot allocation method, such as the one of *Haartsen*, into the system of *Yuki et al.* in order to provide optimum interference diversity for voice communication.

Therefore, the Office Action appears to admit that the primary reference, Yuki, fails to disclose a band allocation control unit of a host station that differentiates between two classes of slave units: a first class of slave unit that can identify a type of data being transmitted; and a second class of slave unit that cannot identify the type of data being transmitted. It follows that Yuki fails to disclose a band allocation control unit sending different band identification information depending on the result of this differentiation.

Although Haartsen discloses a Time Division Multiple Access (TDMA) radio communication system, in which different time slots are allocated to different types of information, modifying Yuki to adopt a time-slot allocation technique (assuming such a modification would have been obvious, which Applicants do not admit) does not result in the technical feature of claim 1 discussed above. In this regard, Applicants note that the TDMA radio communication system of Haartsen is based on the assumption that data identification is performed before hand. See e.g., column 8, lines 56-59.

To establish *prima facie* obviousness, all claim limitations must be taught or suggested by the prior art and the asserted modification or combination of prior art must be supported by some teaching, suggestion, or motivation in the applied reference or in knowledge generally available to one skilled in the art. *In re Fine*, 837, F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Thus, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d

1382, 1385, 165 USPQ 494, 496 (CCPA 1970). The prior art must suggest the desirability of the modification in order to establish a *prima facie* case of obviousness. *In re Brouwer*, 77 F.3d 422, 425, 37 USPQ2d 1663, 1666 (Fed. Cir. 1995). It can also be said that the prior art must collectively suggest or point to the claimed invention to support a finding of obviousness. *In re Hedges*, 783 F.2d 1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986); *In re Ehrreich*, 590 F.2d 902, 908-09, 200 USPQ 504, 510 (CCPA 1979).

At least in view of the above, Applicants respectfully submit that the asserted combination of Yuki and Haartsen (assuming these references may be combined, which Applicants do not admit) fails to establish *prima facie* obviousness of claim 1, or any claim depending therefrom. Furthermore, Applicants submit that independent claims 9 and 11 and dependent claims 12 and 13 define over the asserted combination based on similar reasoning to that set forth above with regard to claim 1.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the Examiner's rejection under 35 U.S.C. § 103 based on the asserted combination of Yuki and Haartsen.

2. Yuki – Haartsen - Lobbett

Claim 13 stands rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Yuki in view of Haartsen, and further in view of Lobbett et al. (U.S. Patent 6,201,622, hereinafter "Lobbett").[1] This rejection is respectfully traversed.

As set forth on pages 7-8 of the Office Action, the Examiner relies on Lobbett as allegedly teaching incremental features of dependent claim 13. Applicants submit, however, that this reliance on Lobbett fails to make up for the deficiencies of the Yuki-Haartsen combination discussed above. Therefore, the asserted combination of Yuki, Haartsen, and Lobbett (assuming these references may be combined, which Applicants do not admit) fails to establish *prima facie* obviousness of any pending claim.

[1] Although the rejection summary set forth on page 6 of the Office Action states that the rejection is based on a combination of Yuki and Lobbett, Applicants have assumed for purpose of this Reply that Haartsen also is relied on as a secondary reference for this rejection because Haartsen was relied on in the rejection of base claim 11.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the Examiner's rejection under 35 U.S.C. § 103 based on the asserted combination of Yuki, Haartsen, and Lobbett.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By _____

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